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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,338	06/12/2001	Dennis Mendiola	YSAP.CHIKKA.PT5	2153
24943	7590	09/29/2005	EXAMINER	
INTELLECTUAL PROPERTY LAW GROUP LLP			DASS, HARISH T	
12 SOUTH FIRST STREET			ART UNIT	
SUITE 1205			PAPER NUMBER	
SAN JOSE, CA 95113			3628	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/878,338	Applicant(s) MENDIOLA ET AL.	
	Examiner Harish T. Dass	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☒ Claim(s) 8-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

AD

DETAILED ACTION

Double Patenting

1. Claims 8-14 and 15-21 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1-7. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Remove system parallel claims too.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al (hereinafter Friedland – US 6,449,601) in view of Kivimaki (WO 00/22906) and Witek et al (US 6,253,188).

Re. Claim 1 Friedland discloses an auction method, system, and requiring that a prospective buyer *or* seller register with the trading and auction *system* before being able to place trading instructions (submit bids), including requiring that said prospective buyer *or* seller provide a phone (Figure 5 # 522) belonging to the prospective buyer *or* seller [Friedland – see entire

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document particularly, Abstract; Figures 1, 4-11; Abstract; C1 L20-L25; C2 L43 C3 L22; C10 L13-L61; C5 L6-L14];

Assigning a password to said prospective buyer *or* seller [Fig. 5 # 510; C10 L35-L36];
Communicating said password to said prospective buyer *or* seller and receiving a confirmation of said password from said prospective buyer *or* seller, wherein at least one of said steps of communicating said password and receiving a confirmation of said password are performed using said telephone device's messaging capability [Figure 4; C3 L52-L67; C5 L6-L14; C10 L13-L61 – see Internet-based web page, by mail, by telephone, or by some other communications means];

Activating said prospective buyer *or* seller's account *or* trading instruction if said password is correct [C3 L10-L17; C10 L26-L40];

Assigning a unique identification number to each product *or* service for sale *or* auction at said trading and auction system [Figures 9-10; C14 L44 to C15 L36 – see product name and lot number];

Sending messages to a buyer's telephone device concerning offers *or* bids made by that buyer in relation to a product *or* service, with the unique identification number of the product *or* service included in a sender field of each message [Figures 10-11; C3 L22-L30; C6 L14-L52; C9 L65 to C10 L12];

Receiving messages concerning a buyer's trading instructions on a product *or* service from that buyer's telephone device, determining the product *or* service by extracting and recognizing the unique identification number of the product *or* service from a 'Recipient' field of received messages, identifying the buyer by extracting and recognizing the unique identifier of

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the telephone device from the sender field of each message [Figures 10-11; C3 L22-L30; C6 L14-L52; C9 L65 to C10 L12].

Friedland does not explicitly disclose unique identifier of a messaging-capable wireless device, wireless communication and parsing a text body of each message to determine the buyer's trading instructions for that product *or* service. However, wireless device (cellular phone, radio phone, car phone, pager, wireless internet connections, etc), interactive voice response (using DTMF) are well known which are portable and enables people to communicate, access interactive system and obtain (listen) voice messages even they are away from stationary communication system (telephone, cable, etc.)

Kivimaki explicitly discloses electronic auctions using mobile phone or wireless internet and unique identifier of a messaging-capable wireless device and SQL server (SQL database engine is well known which includes parsing a text body and extracting/identifying different fields (each message to determine the buyer's trading instructions for that product *or* service))[Abstract; Figures 1-4; C4 L10-L35] to enable buyer/seller to participate in auction using wireless device without continuously monitoring the auction state/status. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Friedland and include wireless communication system, as discloses by Kivimaki, to enable people to do business while they are on road. Alternatively, Witek discloses Standard Query Language (SQL) and converting the ads operative terms into a set of standard field values [Abstract; Figures 2-3, 8, 11; C1 L24-L39; C6 L46 to C7 L42] to automate record generation and establishing parsing table.

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Re. Claim 2 Kivimaki further discloses requiring that a buyer authenticate their identity with the trading and auction *system* when placing their first trading instruction in relation to a product *or* service by an exchange of messages between the trading and auction *system*, in which at least one of said messages are sent *or* received using said wireless device's messaging capability [Abstract; Figures 1-4; C4 L10-L35; C7 L27 to C8 L9].

Re. Claim 3 Friedland wherein said step of communicating said password to said prospective buyer *or* seller is performed over a computer network, and said step of receiving a confirmation of said password from said prospective buyer *or* seller is performed using said wireless device's messaging capability [Figures 5-6; C2 L65 to C3 L22; C5 L6-L14; C9 L1-L63; C10 L13-L61 – see Internet-based web page, by mail, by telephone, or by some other communications means (may include wireless devices)].

Re. Claim 4 Friedland wherein said step of communicating said password to said prospective buyer *or* seller is performed using said wireless device's messaging capability, and said step of receiving a confirmation of said password from said prospective buyer *or* seller is performed over a computer network [Figures 5-6; C2 L65 to C3 L22; C5 L6-L14; C9 L1-L63; C10 L13-L61 – see Internet-based web page, by mail, by telephone, or by some other communications means (may include wireless devices such as cellular phone or wireless internet)].

Re. Claims 5-7 Kivimaki further discloses wherein said wireless device is a GSM device with SMS capability, said wireless device being serviced by a GSM network including a SMSC server

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to control and manage SMS to and from said wireless device, wherein said trading and auction *system* is in direct communication with said SMSC server, wherein said step of sending messages to a buyer's wireless device includes the step concatenating an access identification number with the unique identification number of the product *or* service and placing said concatenated number in the sender field of each message, said SMSC server using the access identification number to identify SMS from wireless devices destined for said trading and auction *system* and to forward such SMS directly to the trading and auction *system*, wherein said trading and auction *system* is connected to said SMSC server via a computer network [Abstract; Figures 1-2; C4 L5 to C5 L12; C6 L35 to C8 L9].

Re. Claim 8, claim 8 is substantially similar to claim 1, therefore claim 8 is rejected with same rational as claim 1.

Re. Claim 9, claim 9 is substantially similar to claim 2, therefore claim 9 is rejected with same rational as claim 2.

Re. Claim 10, claim 10 is substantially similar to claim 3, therefore claim 10 is rejected with same rational as claim 3.

Re. Claim 11, claim 11 is substantially similar to claim 4, therefore claim 11 is rejected with same rational as claim 4.

Re. Claims 12-14, claims 12-14 are substantially similar to claims 5-7, therefore claims 12-14 are rejected with same rational as claims 5-7.

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Re. Claim 15 Friedland discloses an auction method, system, and assigning a unique identification number to each product *or* service for sale *or* auction at said trading and auction system [Figures 9-10; C14 L44 to C15 L36 – see product name and lot number];

Sending messages to a buyer's telephone device concerning offers *or* bids made by that buyer in relation to a product *or* service, with the unique identification number of the product *or* service included in a sender field of each message [Figures 10-11; C3 L22-L30; C6 L14-L52; C9 L65 to C10 L12];

Receiving messages concerning a buyer's trading instructions on a product *or* service from that buyer's wireless device, determining the product *or* service by extracting and recognizing the unique identification number of the product *or* service from a recipient field of received messages, identifying the buyer by extracting and recognizing the unique identifier of the wireless device from the sender field of each message and parsing a text body of each message to determine the buyer's trading instructions for that product *or* service [[Figures 10-11; C3 L22-L30; C6 L14-L52; C9 L65 to C10 L12].

Friedland does not explicitly disclose wireless communication. However, Kivimaki explicitly discloses electronic auctions using mobile phone or wireless internet [Abstract; Figures 1-4; C4 L10-L35] to enable buyer/seller to participate in auction without continuously monitoring the auction state/status. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Friedland and include wireless communication system, as discloses by Kivimaki, to enable people to do business while they are on road.

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Re. Claim 16, claim 16 is substantially similar to claim 2, therefore claim 16 is rejected with same rational as claim 2.

Re. Claim 17, claim 17 is substantially similar to claim 3, therefore claim 17 is rejected with same rational as claim 3.

Re. Claim 18, claim 18 is substantially similar to claim 4, therefore claim 18 is rejected with same rational as claim 4.

Re. Claims 19-21, claims 19-21 are substantially similar to claims 5-7, therefore claims 19-21 are rejected with same rational as claims 5-7.

Re. Claims 22, 27 and 30, claims 22, 27 and 30 are substantially similar to claim 1, therefore claims 22, 30 and 27 are rejected with same rational as claim 1.

Re. Claims 23 and 31, claims 23 and 31 are substantially similar to claim 2, therefore claims 23 and 31 are rejected with same rational as claim 2.

Re. Claims 24-26, 28-29 and 32-34, claims 24-26, 28-29 and 32-34 are substantially similar to claims 5-7, therefore claims 24-26, 28-29 and 32-34 are rejected with same rational as claims 5-7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

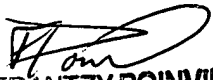
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harish T Dass
Examiner
Art Unit 3628

9/13/05


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